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NOT DEPOSITORY

IN THE SUPERIOR COURT OF STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

v.

STEVEN CARROLL DEMOCKER,

Defendant.

Cause No. P1300CR20081339

Division 6

STATE'S RESPONSE TO DEFENDANT'S  
MOTION *IN LIMINE* RE COUNSEL AS  
WITNESS

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned, hereby submits its Response to Defendant's Motion *in Limine* re Counsel as Witness and requests that Defendant's motion to preclude the State from calling Mr. Sears as a witness be denied. .

During the execution of the first search warrant of Defendants home (20080702SW), law enforcement photographed a shelf in Defendant's garage which held a Big Bertha golf club cover. A set of golf clubs was in a golf club bag next to the shelf. After it was determined that Carol's death was due to blunt force trauma that, in the opinion of the medical examiner, appeared to be inflicted by a gold club, another search warrant was obtained (20080706SW) to seize the clubs. When deputies returned to the residence to execute the subsequent warrant, the

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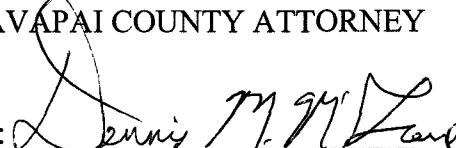

1 clubs were there but the shelves had been straightened and the cover was gone. Mr. Sears  
2 turned the cover over to law enforcement on October 23, 2008, the day of Defendant's arrest.

3 The State has an obligation and a duty to present evidence to the jury concerning the  
4 circumstances under which evidence was obtained. In this case, despite the fact that law  
5 enforcement officials were search for the golf club cover and Defendant was aware of that fact,  
6 Defendant kept the cover from law enforcement and turned it over to his lawyer, who also kept  
7 the cover from law enforcement until the day of Defendant's arrest. These are important  
8 foundational facts that tend to demonstrate the Defendant knew or suspected the cover was  
9 inculpatory evidence and that his lawyer knew or suspected the cover was inculpatory evidence  
10 and yet they both kept the cover from law enforcement for a significant period of time during  
11 this investigation.  
12

13 Shortly after his assignment to this case, the undersigned prosecutor informed Mr.  
14 Sears that he would be called as a witness at trial regarding his possession of the cover. The  
15 State now reiterates its intent to do so.  
16

17 RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of January, 2010.

18  
19 Sheila Sullivan Polk  
20 YAVAPAI COUNTY ATTORNEY

21 By:   
22  Joseph C. Butner  
23 Deputy County Attorney

24 ///

25 ///

26 ///

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COPIES of the foregoing delivered this  
4th day of January, 2010 to:

Honorable Thomas J. Lindberg  
Division 6  
Yavapai County Superior Court  
(via email)

John Sears  
107 North Cortez Street, Suite 104  
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Attorney for Defendant  
(via email)

Larry Hammond  
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Attorney for Defendant  
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By: Deb Cornell